

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:20-cv-00092-MR-WCM

ESTATE OF KATHERINE)
MONICA VICKERS, and RUPA)
VICKERS RUSSE, *individually*)
and as Executor of the Estate)
of Katherine Monica Vickers,)
)
Plaintiffs,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)
_____)

ORDER

This matter is before the Court on “Plaintiffs’ 12(e) Motion in Response to Defendant’s 12(b)(6) or F.R.Civ.P. 56 Motion” (the “Motion for More Definite Statement,” Doc. 50).

In the Motion for More Definite Statement, Plaintiffs seek an Order directing Defendant to submit additional information concerning the third defense in Defendant’s Answer which states briefly that Plaintiffs’ Complaint “should be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, or in the alternative, under Rule 56.” Doc. 49 at 23.

The Motion for More Definite Statement, however, does not indicate that counsel have conferred as required by the Local Rules. See LCvR 7.1(b).

More substantively, the Local Rules also provide that Rule 12 motions

which are contained in an Answer, but are not supported by a brief, act as placeholders and do not prevent joinder of the issues. See LCvR 16.1(d); LCvR 7.1(c)(1). Consequently, the request for dismissal as contained Defendant's third defense does not represent an active motion at this time.

IT IS THEREFORE ORDERED that "Plaintiffs' 12(e) Motion in Response to Defendant's 12(b)(6) or F.R.Civ.P. 56 Motion" (Doc. 50) is **DENIED**.

Signed: January 18, 2022

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

